

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division

BARBARA HAGER,

Plaintiff,

v.

Case No. 5:22cv 00001
Frederick County Circuit Court Case No. CL20-738

WAL-MART STORES EAST, LP and
WALMART INC.,
Defendants.

NOTICE OF REMOVAL

Defendants Wal-Mart Stores East, LP (“Walmart LP”) and Walmart Inc. (collectively, “Walmart”), jointly by counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby file this Notice of Removal on the following grounds:

SUMMARY OF ALLEGATIONS AND POSTURE OF CASE

1. Plaintiff Barbara Hager (“Plaintiff”) filed a Complaint in the County of Frederick Circuit Court on December 7, 2020 seeking damages from a trip and fall at a Walmart store in Winchester, Virginia on December 22, 2018.
2. The registered agent of Walmart LP was served with a Summons and a copy of the Complaint on December 6, 2021. The Summons to Walmart LP and the Complaint served upon Walmart LP are attached collectively hereto as Exhibit A. A copy of the Affidavit of Service is included in the correspondence attached hereto as Exhibit B.
3. Walmart Inc. was not served with a summons or a copy of the Complaint.
4. Walmart timely filed an Answer to the Complaint on December 27, 2021, a copy of which is attached hereto as Exhibit C.

GROUND FOR REMOVAL

5. Plaintiff is a resident of Virginia. Complaint at ¶ 1.
6. Wal-Mart Stores East, LP is a Delaware limited partnership with its principal place of business in Bentonville, Arkansas.
 - a. Wal-Mart Stores East, LP, has two partners: WSE Management, LLC and WSE Investment, LLC, both of which are Delaware limited liability companies, with their principal place of business in Bentonville, Arkansas at the time of filing this action and at the present time.
 - b. The sole member of WSE Management, LLC is Wal-Mart Stores East, LLC, an Arkansas limited liability corporation with its principal place of business in Bentonville, Arkansas at the time of filing this action and at the present time.
 - c. The sole member of WSE Investment, LLC is also Wal-Mart Stores East, LLC.
 - d. The sole member of Wal-Mart Stores East, LLC is Walmart Inc.
7. Walmart Inc. is a Delaware corporation with its principal place of business in Bentonville, Arkansas.
8. This action therefore involves a controversy wholly between citizens of different states. There is complete diversity of citizenship.
9. The amount in controversy exceeds the value of \$75,000, exclusive of interest and costs, because Plaintiff's ad damnum seeks \$500,000.00 in compensatory damages against Walmart.
10. This Court therefore has original jurisdiction in this matter pursuant to 28 U.S.C. § 1332(a), and it may be removed to this Court pursuant to 28 U.S.C. § 1441(a).

COMPLIANCE WITH PROCEDURAL REQUIREMENTS

11. This case was removable when filed.

12. Pursuant to 28 U.S.C. § 1446 (b)(2), this Notice of Removal is being filed within thirty (30) days after service on Walmart LP of a copy of the Complaint, the initial pleading setting forth Plaintiff's claim for relief.

13. Pursuant to 28 U.S.C. § 1441(a), venue of this removal action is proper in the Western District of Virginia, Harrisonburg Division, because it is in the district and division embracing the place where the state court action is pending. Local Rule 2(a)(5).

14. Promptly after the filing of this Notice of Removal, Walmart will give written notice of the removal to Plaintiff, the adverse party, and will file a copy of this Notice of Removal with the Circuit Court of the County of Frederick, as required by 28 U.S.C. § 1446(d).

15. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Walmart in the state court action have been attached hereto.

16. All named Defendants each consent to removal.

17. Walmart demands a trial by jury pursuant to Federal Rule of Civil Procedure 38.

WHEREFORE, Wal-Mart Stores East, LP and Walmart Inc., by counsel, respectfully request that this action be removed from the Circuit Court of the County of Frederick, Virginia, to this Court.

WAL-MART STORES EAST, LP and
WALMART INC.

/s/

Gibson S. Wright (VSB No. 84632)

Attorney for Walmart

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of January, 2022, a true and accurate copy of the foregoing will be sent via email and U.S mail to

Robert B. Guntharp, Esq.
Ritchie Law Firm, P.L.C.
The Graichen Building
25 East Boscawen Street
Winchester, VA 22601
rguntharp@ritchielawfirm.com
Counsel for Plaintiff

And via U.S. mail to

The Hon. Rebecca P. Hogan
Clerk, Frederick County Circuit Court
5 North Kent Street
Winchester, VA 22601-5037.

/s/ _____
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